

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA *et al.*  
*ex rel.* JOHN MILLER,

Plaintiffs,

v.

CARECORE NATIONAL LLC *et al.*,

Defendants.

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UNITED STATES OF AMERICA,

Plaintiff,

v.

CARECORE NATIONAL, LLC,

Defendant.

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**Case No. 13-CV-1177 (RJS)**

**STIPULATION AND ORDER OF SETTLEMENT AND  
RELEASE BETWEEN UNITED STATES AND RELATOR**

WHEREAS, this Stipulation and Order of Settlement and Release (the “Relator Settlement Stipulation”) is entered into between the United States of America, by its attorney Joon H. Kim, Acting United States Attorney for the Southern District of New York (the “United States”), and the relator John Miller (the “Relator”), through their authorized representatives (collectively, the “Parties”);

WHEREAS, on or about February 21, 2013, the Relator filed an action in the United States District Court for the Southern District of New York, captioned *United States of America ex rel. John Miller v. CareCore National LLC et al.*, 13 Civ. 1177 (RJS), pursuant to

the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b) as well as various State False Claims Acts (the “Relator’s Action”);

WHEREAS, on or about April 21, 2017, the United States intervened in part in the Relator’s Action and filed a Complaint-In-Intervention (the “Federal Complaint”);

WHEREAS, the United States, defendant CareCore National LLC (“Defendant”), and Relator entered into a Stipulation and Order of Settlement and Dismissal on or about April 21, 2017 (the “Settlement Agreement”), agreeing to resolve the Covered Conduct defined in the Settlement Agreement;

WHEREAS, pursuant to the Settlement Agreement, Defendant has agreed to pay the United States \$45,000,000.00 plus interest, which shall be compounded annually at a rate of 1.75% accruing as of October 27, 2016, to the date of payment (the “Settlement Amount”) as set forth in Paragraph 3 of the Settlement Agreement;

WHEREAS, the Relator has asserted that, pursuant to 31 U.S.C. § 3730(d)(1), he is entitled to receive a portion of the Federal Settlement Amount (the “Relator’s Claim”); and

WHEREAS, the Parties hereto mutually desire to reach a full, complete, and final settlement of the Relator’s Claim against the United States for a portion of the Federal Settlement Amount pursuant to the terms set forth below.

NOW, THEREFORE, in reliance on the representations contained herein and in consideration of the mutual promises, covenants, and obligations in this Relator Settlement Stipulation, and for good and valuable consideration, receipt of which is hereby acknowledged, the Parties agree as follows:

1. Contingent upon Defendants’ full compliance with the requirements set forth in Paragraph 3 of the Settlement Agreement, including receipt of the payment of the

Settlement Amount, the United States will pay \$9,000,000 plus applicable interest of the Settlement Amount (the “Relator’s Share”) to the Relator c/o Seeger Weiss LLP by electronic funds transfer. The obligation to make this payment to the Relator is expressly conditioned on, and arises only with, Defendant’s compliance with the requirements set forth in Paragraph 3 of the Settlement Agreement. In the event that Defendant does not comply with the requirements set forth in Paragraph 3 of the Settlement Agreement, the United States shall have no obligation to pay the Relator’s Share to the Relator.

2. The Relator and his heirs, successors, attorneys, agents, and assigns, shall not object to the Settlement Agreement but agree and confirm that the Settlement Agreement is fair, adequate, and reasonable under all circumstances, and will not challenge the Settlement Agreement, including but not limited to the Settlement Amount, pursuant to 31 U.S.C. § 3730(c)(2)(B), and expressly waives the opportunity for a hearing on any such objection, pursuant to 31 U.S.C. § 3730(c)(2)(B).

3. Conditioned upon the Relator’s receipt of the Relator Share, the Relator, for himself and his heirs, successors, attorneys, agents and assigns, fully and finally release, waive, and forever discharge the United States and its agencies, officers, employees, servants, and agents from any claims arising from the filing of the Relator’s Action or under 31 U.S.C. § 3730, and from any claims to a share of the proceeds of the Settlement Agreement and/or the Relator’s Action. In the event Defendant does not comply with the requirements set forth in Paragraph 3 of the Settlement Agreement, and as a result the Relator does not receive the Relator Share, the Relator reserves his right pursuant to 31 U.S.C. § 3730(d)(1) to seek a portion of any proceeds recovered by the United States in this matter.

4. This Relator Settlement Stipulation does not resolve or in any manner affect any claims the United States has or may have against the Relator arising under Title 26, U.S. Code (Internal Revenue Code), or any claims that either Party has or may have arising under this Relator Settlement Stipulation.

5. The United States and the Relator agree that if the Settlement Agreement is held by a court not to be “fair, adequate, and reasonable,” this Relator Settlement Stipulation is null and void.

6. This Relator Settlement Stipulation shall inure to the benefit of and be binding only on the Parties, their successors, assigns, and heirs.

7. Each of the signatories represents that he or she has the full power and authority to enter into this Relator Settlement Stipulation.

8. This Relator Settlement Stipulation shall become final, binding, and effective only upon entry by the Court.

9. This Relator Settlement Stipulation constitutes the entire agreement of the United States and the Relator with respect to the subject matter of this Relator Settlement Stipulation and may not be changed, altered, or modified, except by a written agreement signed by the United States and the Relator specifically referring to this Relator Settlement Stipulation.

10. This Relator Settlement Stipulation is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Relator Settlement Stipulation is the United States District Court for the Southern District of New York. For purposes of construing this Relator Settlement Stipulation, this Relator Settlement Stipulation shall be deemed to have been drafted by all Parties to it and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

11. This Relator Settlement Stipulation may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.

Agreed to by:

**THE UNITED STATES OF AMERICA**

Dated: New York, New York  
April 21, 2017

JOON H. KIM  
Acting United States Attorney for the  
Southern District of New York

By:

  
ARASTU K. CHAUDHURY  
Assistant United States Attorneys  
86 Chambers Street, Third Floor  
New York, New York 10007  
Telephone: (212) 637-2633  
Facsimile: (212) 637-2750

*Attorney for the United States of America*

RELATOR

Dated: 21 April, 2017

By:

John Miller  
JOHN MILLER  
*Relator*

Dated: New York, New York  
\_\_\_\_\_, 2017

SEAGER WEISS LLP

By:

STEPHEN A. WEISS  
TERRIANNE BENEDETTO  
77 Water Street  
New York, New York 10005  
Tel.: (212) 584-0700

MILBERG LLP

By:

MATTHEW GLUCK  
ANNA C. DOVER  
One Pennsylvania Plaza  
New York, New York 10119  
Tel.: (212) 594-5300

*Attorneys for Relator John Miller*

SO ORDERED:

  
HON. RICHARD J. SULLIVAN  
UNITED STATES DISTRICT JUDGE

Dated: May 9, 2017

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ELECTRONICALLY FILED
DOC #:
DATE FILED: <u>5/11/17</u>

RELATOR

Dated: Colorado Springs, Colorado  
April 20, 2017

By: \_\_\_\_\_  
JOHN MILLER  
*Relator*

Dated: New York, New York  
April 20, 2017

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*Attorneys for Relator John Miller*

SO ORDERED:

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HON. RICHARD J. SULLIVAN  
UNITED STATES DISTRICT JUDGE

Dated: \_\_\_\_\_, 2017

**RELATOR**

Dated: \_\_\_\_\_, 2017

By:

JOHN MILLER  
*Relator*

Dated: New York, New York

April 21, 2017

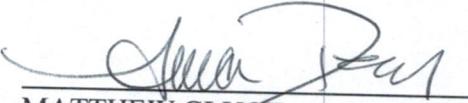
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Dated: \_\_\_\_\_, 2017